

Message Text

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ORIGIN EB-06

INFO OCT-01 ISO-00 TRSE-00 COME-00 STR-04 LAB-03 H-02

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CEA-01 CIAE-00 DODE-00 FRB-01 INR-07 INT-05 L-02

NSAE-00 NSC-05 PA-02 AID-05 CIEP-02 SS-15 TAR-01

USIA-15 PRS-01 SP-02 OMB-01 SWF-01 /146 R

DRAFTED BY EB/OT/TA:WGBARRACLOUGH:LV

APPROVED BY EB/ITP:MGLITMAN

TREASURY:WBARREDA

COMMERCE:BMILLER

STR:JGREENWALD

LABOR:MFUCHS

H:KBJENKINS

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FM SECSTATE WASHDC

TO ALL DIPLOMATIC POSTS

UNCLAS STATE 226810

E.O. 11652: N/A

TAGS: ETRD

SUBJECT: STATUS OF THE TRADE BILL

REF: (A) STATE 220962, (B) STATE 219973

1. THE SENATE FINANCE COMMITTEE COMPLETED ITS SCHEDULED REVIEW OF THE TRADE BILL IN EXECUTIVE SESSION THE WEEK OF OCTOBER 8. THE COMMITTEE STAFF IS NOW IN THE PROCESS OF DRAFTING THE COMMITTEE'S REPORT AND THE BILL IS EXPECTED TO BE PLACED ON THE SENATE CALENDAR SHORTLY AFTER THE CONGRESS RETURNS FROM ITS ELECTION RECESS THE SECOND WEEK OF NOVEMBER. ALTHOUGH THERE IS THE POSSIBILITY OF ADDITIONAL EXECUTIVE SESSIONS FOLLOWING RECESS, WE DO UNCLASSIFIED

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NOT EXPECT THE COMMITTEE TO HOLD FURTHER SUBSTANTIVE DISCUSSIONS. WE UNDERSTAND THAT THE BILL REPORTED BY THE COMMITTEE WILL CONTAIN THE JACKSON-VANIK AMENDMENT TO TITLE IV AS PASSED BY THE HOUSE. THIS ISSUE WILL THEN BE

DEALT WITH BY AMENDMENT FROM THE SENATE FLOOR TO REFLECT THE COMPROMISE BEING WORKED OUT BETWEEN THE ADMINISTRATION AND KEY SENATORS. WE ALSO EXPECT THE BILL TO CONTAIN THE AMENDMENTS TO TITLE V ESSENTIALLY AS REPORTED IN REF (B). WE CONTINUE TO BE OPTIMISTIC THAT THE TRADE BILL WILL PASS IN THIS SESSION OF CONGRESS.

2. THE FOLLOWING ARE EXCERPTS FROM THE FINANCE COMMITTEE'S PRESS RELEASES FOR THE FOUR MARK-UP SESSIONS HELD IN THE PERIOD OCTOBER 3-10 WHICH MAY BE OF PARTICULAR INTEREST TO POSTS.

3. NON-TARIFF BARRIER AGREEMENTS (SECTION 102)

(A) HARMONIZATION OF NON-TARIFF BARRIERS.--THE COMMITTEE AGREED TO AMEND SECTION 102 OF THE HOUSE BILL TO DIRECT THE PRESIDENT TO ENTER INTO TRADE AGREEMENTS PROVIDING FOR THE HARMONIZATION OF NON-TARIFF BARRIERS TO TRADE, AS WELL AS FOR REDUCTION OR ELIMINATION OF NTB'S AS UNDER THE HOUSE BILL.

(B) SUBSIDIES.--THE COMMITTEE AGREED TO AMEND SECTION 102 TO GIVE THE PRESIDENT EXPLICIT AUTHORITY TO NEGOTIATE NON-TARIFF BARRIER AGREEMENTS WITH RESPECT TO FOREIGN SUBSIDIES ADVERSELY AFFECTING THE UNITED STATES' DOMESTIC ECONOMY. THE HOUSE BILL AS CURRENTLY DRAFTED REFERS PRIMARILY TO FOREIGN NON-TARIFF BARRIERS AFFECTING UNITED STATES EXPORT TRADE.

(C) IMPOSITION OF FUTURE NTB'S.--THE COMMITTEE AGREED TO AMEND SECTION 102 TO PROVIDE THAT THE AUTHORITY TO ENTER INTO NTB AGREEMENTS INCLUDES AGREEMENTS TO REFRAIN FROM THE IMPOSITION OF NON-TARIFF BARRIERS WHERE SUCH BARRIERS ARE NOT CURRENTLY IMPOSED.

(D) NON MFN APPLICATION.--THE COMMITTEE AGREED TO PROVIDE EXPRESSLY THAT A NON-TARIFF BARRIER AGREEMENT UNCLASSIFIED

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MAY BE ENTERED INTO ON OTHER THAN A MOST-FAVORED-NATION BASIS IN ORDER TO ASSURE THAT A FOREIGN COUNTRY WHICH RECEIVES BENEFITS UNDER A TRADE AGREEMENT IS SUBJECT TO THE OBLIGATIONS IMPOSED BY THE AGREEMENT.

4. CONGRESSIONAL APPROVAL PROCEDURES.--THE COMMITTEE AGREED THAT THE CONGRESSIONAL VETO PROVISIONS AGREED TO PREVIOUSLY IN TITLES I - III OF THE BILL (I.E., WITH REGARD TO DECISIONS BY THE PRESIDENT TO PROVIDE IMPORT RELIEF OTHER THAN THAT RECOMMENDED BY THE TARIFF COMMISSION, TO RETALIATE ON AN MFN BASIS AGAINST FOREIGN COUNTRIES DISCRIMINATING AGAINST U.S. COMMERCE, OR TO IMPOSE A MEASURE OTHER THAN THAT RECOMMENDED BY THE

TARIFF COMMISSION IN NON-PATENT UNFAIR IMPORT PRACTICE CASES) WOULD BE APPROVED BY BOTH HOUSES OF CONGRESS AND WOULD BE SUBJECT TO UNIFORM PROCEDURAL RULES.

5. MARKET DISRUPTION (TITLE IV).--THE COMMITTEE AGREED THAT THE MARKET DISRUPTION PROVISIONS RELATING TO IMPORTS FROM COMMUNIST COUNTRIES WOULD APPLY TO POLAND AND YUGOSLAVIA, TWO COUNTRIES WHICH ALREADY RECEIVE MFN TREATMENT.

6. APPROVAL PROCEDURE.--UNDER A TENTATIVE COMMITTEE DECISION, EACH TRADE AGREEMENT WITH NON-MARKET COUNTRIES WOULD HAVE TO BE IMPLEMENTED THROUGH A POSITIVE ACTION BY BOTH HOUSES OF CONGRESS. THEY WOULD BE VOTED ON UNDER THE SAME PROCEDURES AS "NONTARIFF BARRIER" AGREEMENTS. THE COMMITTEE TODAY AGREED TO MAKE THIS REQUIREMENT PROSPECTIVE, I.E., WITH REGARD TO TRADE AGREEMENTS NEGOTIATED AFTER THE DATE OF ENACTMENT.

7. COUNTERVAILING DUTIES: TIME LIMITS AND CONGRESSIONAL OVERRIDE.--UNDER THE HOUSE BILL, THE SECRETARY OF THE TREASURY WOULD HAVE ONE YEAR TO CONCLUDE AN INVESTIGATION IN ORDER TO DETERMINE WHETHER OR NOT AN IMPORTED PRODUCT WAS SUBJECT TO A BOUNTY OR GRANT. FURTHERMORE, THE HOUSE BILL WOULD HAVE ALLOWED THE SECRETARY FOUR ADDITIONAL YEARS IN WHICH TO WAIVE THE IMPOSITION OF COUNTERVAILING DUTY WHENEVER HE DETERMINED THAT IMPOSITION OF SUCH DUTIES WOULD PREJUDICE TRADE NEGOTIATIONS

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BEING CARRIED ON WITH COUNTRIES AFFECTED. THE COMMITTEE FELT THAT THIS DISCRETIONARY AUTHORITY WAS WITHOUT SUFFICIENT SAFEGUARDS AND COULD SERIOUSLY INJURE U.S. INDUSTRIES. CONSEQUENTLY, THE COMMITTEE PROVIDED:

1. THE SECRETARY OF THE TREASURY WOULD HAVE SIX MONTHS FROM THE DATE OF THE PETITION IN WHICH TO MAKE A PRELIMINARY DETERMINATION AS TO THE EXISTENCE OF A BOUNTY OR GRANT.

2. IF THE INITIAL DETERMINATION INDICATED THE LIKELY EXISTENCE OF A BOUNTY OR GRANT, THE SECRETARY OF THE TREASURY WOULD HAVE AN ADDITIONAL SIX MONTHS TO NEGOTIATE WITH THE PARTICULAR FOREIGN COUNTRY (IES) IN AN ATTEMPT TO OBTAIN THE ELIMINATION OF THE BOUNTY OR GRANT.

3. IF THE BOUNTY OR GRANT, OR ANY PORTION THEREOF, REMAINED IN EFFECT, THE SECRETARY OF THE TREASURY WOULD THEN BE REQUIRED TO ISSUE A FINAL COUNTERVAILING DUTY ORDER FOLLOWING THE END OF THE SECOND SIX-MONTH PERIOD (TOTAL TIME PERIOD ONE YEAR FROM DATE OF PETITION). HOWEVER, HE MAY SUSPEND THE APPLICATION OF THE ORDER IF

HE DETERMINED THAT:

A. ADEQUATE STEPS HAD BEEN TAKEN TO SUBSTANTIALLY REDUCE OR ELIMINATE THE ADVERSE EFFECT OF THE BOUNTY OR GRANT;

B. THERE IS A REASONABLE PROSPECT THAT SUCCESSFUL TRADE AGREEMENTS WILL BE ENTERED INTO, UNDER SECTION 102, WITH FOREIGN COUNTRIES PROVIDING FOR THE REDUCTION OR

ELIMINATION OF NTB'S; AND

C. THE IMPOSITION OF COUNTERVAILING DUTIES WOULD BE LIKELY TO SERIOUSLY JEOPARDIZE THE SATISFACTORY COMPLETION OF SUCH NEGOTIATIONS.

THE SUSPENSION MUST BE ENDED IF THE CONDITIONS DESCRIBED ABOVE DO NOT CONTINUE, AND MAY BE ENDED AT ANY TIME. THE AUTHORITY OF THE SECRETARY TO SUSPEND UNCLASSIFIED

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COUNTERVAILING DUTIES WOULD EXPIRE AFTER THE FIVE-YEAR PERIOD FOR TRADE NEGOTIATIONS UNDER THE BILL. THE INITIAL DETERMINATION, THE RESULTS OF ANY NEGOTIATION, AND ANY FINAL DETERMINATION (INCLUDING SUSPENSION OF COUNTERVAILING DUTIES) WOULD BE MADE PUBLIC.

4. IF THE PRESIDENT DECIDED TO SUSPEND THE IMPOSITION OF COUNTERVAILING DUTIES, HE WOULD IMMEDIATELY REPORT HIS DETERMINATION TO CONGRESS. AT ANY TIME THEREAFTER, EITHER HOUSE OF CONGRESS COULD, UNDER THE VETO PROCEDURE AGREED TO BY THE CONGRESS, VOTE BY SIMPLE MAJORITY TO OVERRIDE THE SECRETARY'S DECISION AND TO REQUIRE THE SECRETARY TO IMPOSE IMMEDIATELY THE COUNTERVAILING DUTIES.

8. GENERALIZED SYSTEM OF PREFERENCES (GSP).--THE COMMITTEE HAD PREVIOUSLY AGREED TO EXCLUDE COMMUNIST COUNTRIES FROM ELIGIBILITY FOR GSP. TODAY, THE COMMITTEE AGREED THAT COUNTRIES THAT ARE NOW GATT AND IMF MEMBERS (CURRENTLY YUGOSLAVIA AND RUMANIA) COULD STILL BE ELIGIBLE FOR GSP, UNLESS THEY ARE DOMINATED BY INTERNATIONAL COMMUNISM. THE COMMITTEE'S AMENDMENT DID NOT AFFECT THE REQUIREMENT THAT A COUNTRY MUST BE RECEIVING MFN TREATMENT FROM THE UNITED STATES BEFORE IT COULD BE ELIGIBLE FOR PREFERENCES UNDER TITLE V OF THE BILL. NOR DOES THE COMMITTEE'S DECISION AFFECT THOSE COMMUNIST COUNTRIES CURRENTLY EXCLUDED FROM RECEIVING GENERALIZED PREFERENCES UNDER SECTION 502 (B) OF THE BILL (WHICH LISTS DEVELOPED COUNTRIES NOT ELIGIBLE FOR PREFERENCES).

9. BALANCE OF PAYMENTS.--UNDER THE HOUSE BILL, THE PRESIDENT IS AUTHORIZED, AT HIS DISCRETION, TO IMPOSE TEMPORARY IMPORT SURCHARGES AND QUANTITATIVE RESTRICTIONS

IN ORDER TO DEAL WITH LARGE AND SERIOUS U.S. BALANCE OF PAYMENTS DEFICITS. UNDER THE COMMITTEE DECISION, THE PRESIDENT WOULD BE REQUIRED TO IMPOSE IMPORT-RESTRICTING ACTIONS WHENEVER THE U.S. FACES SUCH A LARGE BALANCE OF PAYMENT DEFICIT. HOWEVER, THE PRESIDENT WOULD BE PERMITTED TO REFRAIN FROM IMPOSING IMPORT-RESTRICTING ACTIONS IF HE DETERMINES THAT THEY WOULD BE CONTRARY TO U.S. NATIONAL INTEREST. IF HE DOES NOT RESTRICT IMPORTS THE PRESIDENT WOULD HAVE TO INFORM THE CONGRESS AND CONSULT THE PRESIDENT WOULD HAVE TO INFORM THE CONGRESS AND CONSULT
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WITH THE MEMBERS OF THE SENATE FINANCE AND HOUSE WAYS AND MEANS COMMITTEES WHO SERVE AS CONGRESSIONAL ADVISORS UNDER SECTION 161 OF THE BILL, AS TO THE REASONS FOR HIS DETERMINATION.

10. ACCESS TO SUPPLIES.--THE COMMITTEE AGREED THAT A PRINCIPAL NEGOTIATING OBJECTIVE AUTHORIZED BY AUTHORITIES GRANTED UNDER THIS BILL, WILL BE TO ENTER INTO TRADE AGREEMENTS WITH ANY COUNTRY OR GROUP OF COUNTRIES WHICH SUPPLY THE UNITED STATES WITH ARTICLES OF COMMERCE DEEMED ESSENTIAL TO U.S. ECONOMIC REQUIREMENTS, AND FOR WHICH THE UNITED STATES DOES NOT HAVE, OR COULD NOT EASILY DEVELOP, THE NECESSARY DOMESTIC PRODUCTIVE CAPACITY TO SUPPLY ITS OWN REQUIREMENTS. SUCH TRADE AGREEMENTS MAY INCLUDE:

(A) ASSURANCES ON CONTINUED AVAILABILITY OF SUCH ARTICLES AT REASONABLE PRICES;

(B) RECIPROCAL CONCESSIONS BY THE UNITED STATES FOR PRODUCTS OF SUCH COUNTRY OR GROUPS OF COUNTRIES.

11. GENERALIZED PREFERENCES.--UNDER THE HOUSE BILL, COUNTRIES WHICH GRANT REVERSE PREFERENCES TO DEVELOPED COUNTRIES ARE NOT ELIGIBLE FOR GENERALIZED PREFERENCES UNDER TITLE V UNLESS THEY ELIMINATE SUCH PREFERENCES AS OF JANUARY 1, 1976. THE COMMITTEE AGREED TO AMEND THIS SECTION TO PROVIDE THAT COUNTRIES COULD BE ELIGIBLE FOR GENERALIZED PREFERENCES IF THEY ELIMINATE SUCH PREFERENCES AS UNDER THE HOUSE BILL, OR IF THEY TAKE STEPS TO ASSURE THAT SUCH PREFERENCES DO NOT HAVE A SIGNIFICANT ADVERSE EFFECT ON U.S. COMMERCE BY JANUARY 1, 1976. KISSINGER

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